

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 97

Introduced by Lautenbaugh, 18; Friend, 10; Howard, 9; Rogert, 16.

Read first time January 09, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to law; to amend sections 21-20,177,
2 21-20,179, 28-101, 28-311, 28-320.02, 28-813.01, 28-1010,
3 28-1463.02, 28-1463.03, 28-1463.04, 28-1463.05, 29-110,
4 29-4001, 29-4003, 29-4006, 29-4007, and 29-4008, Reissue
5 Revised Statutes of Nebraska; to change provisions
6 relating to service on and revocation of certificates of
7 authority of foreign corporations; to change provisions
8 and penalties regarding criminal child enticement, use of
9 a computer in sexual assault, sexually explicit conduct,
10 and the Child Pornography Prevention Act; to prohibit
11 certain Internet use by sexually violent predators; to
12 eliminate a statute of limitations for incest; to provide
13 for confidentiality of certain property or material of
14 a sexual nature held by law enforcement; to change

1 provisions relating to the Sex Offender Registration Act;
2 to harmonize provisions; to repeal the original sections;
3 and to declare an emergency.
4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 21-20,177, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 21-20,177 (1) The registered agent of a foreign
4 corporation authorized to transact business in this state shall
5 be the corporation's agent for service of process, notice, or
6 demand required or permitted by law to be served on the foreign
7 corporation. By being authorized to transact business in this
8 state, the foreign corporation's agent for service of process
9 shall also consent to service of process directed to the foreign
10 corporation's agent in Nebraska for a search warrant issued
11 pursuant to sections 28-807 to 28-829, or for any other validly
12 issued and properly served subpoena, including those authorized
13 under section 86-2,112, for records or documents that are in the
14 possession of the foreign corporation and are located inside or
15 outside of this state. The consent to service of a subpoena or
16 search warrant applies to a foreign corporation that is a party or
17 nonparty to the matter for which the search warrant is sought.

18 (2) A foreign corporation may be served by registered
19 or certified mail, return receipt requested, addressed to the
20 secretary of the foreign corporation or the designated custodian
21 of records at its principal office shown in its application for a
22 certificate of authority or in its most recent annual report if the
23 foreign corporation has:

24 (a) No registered agent or its registered agent cannot
25 with reasonable diligence be served;

1 (b) Withdrawn from transacting business in this state
2 under section 21-20,178; or

3 (c) Had its certificate of authority revoked under
4 section 21-20,180.

5 (3) Service shall be perfected under subsection (2) of
6 this section at the earliest of:

7 (a) The date the foreign corporation receives the mail;

8 (b) The date shown on the return receipt if signed on
9 behalf of the foreign corporation; or

10 (c) Five days after its deposit in the United States
11 mail as evidenced by the postmark if mailed postage prepaid and
12 correctly addressed.

13 (4) This section shall not be construed to prescribe the
14 only means or necessarily the required means of serving a foreign
15 corporation.

16 Sec. 2. Section 21-20,179, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 21-20,179 The Secretary of State may commence a
19 proceeding under section 21-20,180 to revoke the certificate of
20 authority of a foreign corporation authorized to transact business
21 in this state if:

22 (1) The foreign corporation is without a registered agent
23 or registered office in this state for sixty days or more;

24 (2) The foreign corporation does not inform the Secretary
25 of State under section 21-20,175 or 21-20,176 that its registered

1 agent or registered office has changed, that its registered agent
2 has resigned, or that its registered office has been discontinued
3 within sixty days of the change, resignation, or discontinuance;

4 (3) An incorporator, director, officer, or agent of the
5 foreign corporation signed a document he or she knew was false in
6 any material respect with intent that the document be delivered to
7 the Secretary of State for filing; ~~or~~

8 (4) The foreign corporation or its agent for service of
9 process does not comply with section 21-20,177; or

10 ~~(4)~~ (5) The Secretary of State receives a duly
11 authenticated certificate from the official having custody of
12 the corporate records in the state or country under whose law
13 the foreign corporation is incorporated stating that it has been
14 dissolved or has disappeared as the result of a merger.

15 Sec. 3. Section 28-101, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 28-101 Sections 28-101 to 28-1350 and section 6 of this
18 act shall be known and may be cited as the Nebraska Criminal Code.

19 Sec. 4. Section 28-311, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 28-311 (1) No person, by any means and without privilege
22 to do so, shall knowingly solicit, coax, entice, or lure or attempt
23 to solicit, coax, entice, or lure any child under the age of
24 fourteen years to enter into any vehicle, whether or not the person
25 knows the age of the child, if:

1 (a) The person does not have the express or implied
2 permission of the parent, guardian, or other legal custodian of the
3 child in undertaking the activity; and

4 (b) (i) The person is not a law enforcement officer,
5 emergency services provider as defined in section 71-507,
6 firefighter, or other person who regularly provides emergency
7 services, is not the operator of a bookmobile or other such vehicle
8 operated by the state or a political subdivision and used for
9 informing, educating, organizing, or transporting children, is not
10 a paid employee of, or a volunteer for, a nonprofit or religious
11 organization which provides activities for children, and is not an
12 employee or agent of or a volunteer acting under the direction of
13 any board of education or (ii) the person is a person listed in
14 subdivision (1) (b) (i) of this section but, at the time the person
15 undertakes the activity, he or she is not acting within the scope
16 of his or her lawful duties in that capacity.

17 (2) It is an affirmative defense to a charge under this
18 section that the person undertook the activity in response to a
19 bona fide emergency situation or that the person undertook the
20 activity in response to a reasonable belief that it was necessary
21 to preserve the health, safety, or welfare of the child.

22 (3) Any person who violates this section commits criminal
23 child enticement and is guilty of a Class I ~~misdemeanor~~. IIIA
24 felony. If such person has previously been convicted of (a)
25 criminal child enticement under this section, (b) sexual assault

1 of a child in the first degree under section 28-319.01, (c)
2 sexual assault of a child in the second or third degree under
3 section 28-320.01, (d) child enticement by means of an electronic
4 communication device under section 28-320.02, or ~~(d)~~ (e) assault
5 under section 28-308, 28-309, or 28-310, kidnapping under section
6 28-313, or false imprisonment under section 28-314 or 28-315 when
7 the victim was under eighteen years of age when such person
8 violates this section, such person is guilty of a Class ~~IV~~ III
9 felony.

10 Sec. 5. Section 28-320.02, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 28-320.02 (1) No person shall knowingly solicit, coax,
13 entice, or lure (a) a child sixteen years of age or younger
14 or (b) a peace officer who is believed by such person to be a
15 child sixteen years of age or younger, by means of a ~~computer~~ an
16 electronic communication device as that term is defined in section
17 ~~28-1343,~~ 28-833, to engage in an act which would be in violation of
18 section 28-319, 28-319.01, or 28-320.01 or subsection (1) or (2) of
19 section 28-320. A person shall not be convicted of both a violation
20 of this subsection and a violation of section 28-319, 28-319.01,
21 or 28-320.01 or subsection (1) or (2) of section 28-320 if the
22 violations arise out of the same set of facts or pattern of conduct
23 and the individual solicited, coaxed, enticed, or lured under this
24 subsection is also the victim of the sexual assault under section
25 28-319, 28-319.01, or 28-320.01 or subsection (1) or (2) of section

1 28-320.

2 (2) A person who violates this section is guilty of
3 a Class ~~IIIA~~ ID felony. If a person who violates this section
4 has previously been convicted of a violation of this section or
5 section 28-308, 28-309, 28-310, 28-311, 28-313, 28-314, 28-315,
6 28-319, 28-319.01, ~~or~~ 28-320.01, 28-813.01, 28-833, 28-1463.03, or
7 28-1463.05 or subsection (1) or (2) of section 28-320, the person
8 is guilty of a Class ~~III~~ IC felony.

9 Sec. 6. (1) Any person required to register under the
10 Sex Offender Registration Act who is found to be a sexually
11 violent predator under subdivision (4)(c) of section 29-4005 or is
12 required to register because of a conviction for one or more of the
13 following offenses, including any substantially equivalent offense
14 committed in another state, territory, commonwealth, or other
15 jurisdiction of the United States and knowingly and intentionally
16 uses a social networking web site or service, instant messaging, or
17 chat room service that allows a person who is less than eighteen
18 years of age to access or use its social networking web site,
19 instant messaging, or chat room service, commits the offense of
20 unlawful use of the Internet by a prohibited sex offender:

21 (a) Kidnapping of a minor pursuant to section 28-313;

22 (b) Sexual assault of a child in the first degree
23 pursuant to section 28-319.01;

24 (c) Sexual assault of a child in the second or third
25 degree pursuant to section 28-320.01;

- 1 (d) Incest of a minor pursuant to section 28-703;
2 (e) Pandering of a minor pursuant to section 28-802;
3 (f) Visual depiction of sexually explicit conduct of a
4 child pursuant to section 28-1463.03 or 28-1463.05;
5 (g) Possessing any visual depiction of sexually explicit
6 conduct pursuant to section 28-813.01;
7 (h) Criminal child enticement pursuant to section 28-311;
8 (i) Child enticement by means of an electronic
9 communication device pursuant to section 28-320.02;
10 (j) Enticement by electronic communication device
11 pursuant to section 28-833; or
12 (k) An attempt or conspiracy to commit an offense listed
13 in subdivisions (1)(a) through (1)(j) of this section;
14 (2) Unlawful use of the Internet by a prohibited sex
15 offender is a Class I misdemeanor for a first offense. Any second
16 or subsequent conviction under this section is a Class IIIA felony.
- 17 Sec. 7. Section 28-813.01, Reissue Revised Statutes of
18 Nebraska, is amended to read:
- 19 28-813.01 (1) It shall be unlawful for a person to
20 knowingly possess any visual depiction of sexually explicit
21 conduct, as defined in section 28-1463.02, which has a child, as
22 defined in such section, as one of its participants or portrayed
23 observers or appears to have a child as one of its participants
24 or portrayed observers.
- 25 (2) Any person who violates this section shall be guilty

1 of a Class ~~IV~~ III felony for each offense. If a person who
2 violates this section has previously been convicted of a violation
3 of this section or section 28-308, 28-309, 28-310, 28-311,
4 28-313, 28-314, 28-315, 28-319, 28-319.01, 28-320.01, 28-833, or
5 28-1463.03, 28-1463.05 or subsection (1) or (2) of section 28-320,
6 the person is guilty of a Class IC felony for each offense.

7 Sec. 8. Section 28-1010, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 28-1010 A person commits indecency with an animal when
10 such person subjects an animal to sexual penetration as defined in
11 ~~subdivision (6) of~~ section 28-318. Indecency with an animal is a
12 Class III misdemeanor.

13 Sec. 9. Section 28-1463.02, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 28-1463.02 As used in the Child Pornography Prevention
16 Act, unless the context otherwise requires:

17 (1) Child, in the case of a participant, ~~shall mean~~ means
18 any person under the age of eighteen years and, in the case of a
19 portrayed observer, ~~shall mean~~ means any person under the age of
20 sixteen years;

21 (2) Erotic fondling ~~shall mean~~ means touching a person's
22 clothed or unclothed genitals or pubic area, breasts if the
23 person is a female, or developing breast area if the person
24 is a female child, for the purpose of real or simulated overt
25 sexual gratification or sexual stimulation of one or more persons

1 involved. Erotic fondling shall not be construed to include
2 physical contact, even if affectionate, which is not for the
3 purpose of real or simulated overt sexual gratification or sexual
4 stimulation of one or more of the persons involved;

5 (3) Erotic nudity ~~shall mean~~ means the display of the
6 human male or female genitals or pubic area, the human female
7 breasts, or the developing breast area of the human female child,
8 for the purpose of real or simulated overt sexual gratification or
9 sexual stimulation of one or more of the persons involved;

10 (4) Sadomasochistic abuse ~~shall mean~~ means flagellation
11 or torture by or upon a nude person or a person clad in
12 undergarments, a mask, or bizarre costume, or the condition of
13 being fettered, bound, or otherwise physically restrained when
14 performed to predominantly appeal to the morbid interest;

15 (5) Sexually explicit conduct ~~shall mean:~~ means: (a) Real
16 or simulated intercourse, whether genital-genital, oral-genital,
17 anal-genital, or oral-anal between persons of the same or opposite
18 sex or between a human and an animal or with an artificial
19 genital; (b) real or simulated masturbation; (c) real or simulated
20 sadomasochistic abuse; (d) erotic fondling; (e) erotic nudity; or
21 (f) real or simulated defecation or urination for the purpose of
22 sexual gratification or sexual stimulation of one or more of the
23 persons involved; and

24 (6) Visual depiction ~~shall mean~~ means live performance or
25 photographic representation and includes any undeveloped film or

1 videotape or data stored on a computer disk or by other electronic
2 means which is capable of conversion into a visual image and
3 also includes any photograph, film, video, picture, digital image,
4 or computer displayed image, video, or picture, whether made or
5 produced by electronic, mechanical, computer, digital, or other
6 means.

7 Sec. 10. Section 28-1463.03, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 28-1463.03 (1) It shall be unlawful for a person to
10 knowingly make, publish, direct, create, provide, or in any manner
11 generate any visual depiction of sexually explicit conduct which
12 has a child as one of its participants or portrayed observers.

13 (2) It shall be unlawful for a person knowingly to
14 purchase, rent, sell, deliver, distribute, display for sale,
15 advertise, trade, or provide to any person any visual depiction
16 of sexually explicit conduct, which has a child as one of its
17 participants or portrayed observers or appears to have a child as
18 one of its participants or portrayed observers.

19 (3) It shall be unlawful for a person to knowingly
20 employ, force, authorize, induce, or otherwise cause a child to
21 engage in any visual depiction of sexually explicit conduct, which
22 has a child as one of its participants or portrayed observers or
23 appears to have a child as one of its participants or portrayed
24 observers.

25 (4) It shall be unlawful for a parent, stepparent, legal

1 guardian, or any person with custody and control of a child,
2 knowing the content thereof, to consent to such child engaging
3 in any visual depiction of sexually explicit conduct, which has a
4 child as one of its participants or portrayed observers or appears
5 to have a child as one of its participants or portrayed observers.

6 Sec. 11. Section 28-1463.04, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 28-1463.04 Any person who violates section 28-1463.03
9 shall be guilty of a Class III ID felony for the first offense and
10 shall be guilty of a Class II felony for each subsequent offense.
11 each offense. If a person who violates this section has previously
12 been convicted of a violation of this section or section 28-308,
13 28-309, 28-310, 28-311, 28-313, 28-314, 28-315, 28-319, 28-319.01,
14 28-320.01, 28-813, 28-833, or 28-1463.05 or subsection (1) or (2)
15 of section 28-320, the person is guilty of a Class IC felony for
16 each offense.

17 Sec. 12. Section 28-1463.05, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 28-1463.05 (1) It shall be unlawful for a person to
20 knowingly possess with intent to rent, sell, deliver, distribute,
21 trade, or provide to any person any visual depiction of sexually
22 explicit conduct which has a child as one of its participants
23 or portrayed observers or appears to have a child as one of its
24 participants or portrayed observers.

25 (2) Any person who violates this section shall be guilty

1 of a Class IIIA felony for each offense. If a person who violates
2 this section has previously been convicted of a violation of this
3 section or section 28-308, 28-309, 28-310, 28-311, 28-313, 28-314,
4 28-315, 28-319, 28-319.01, 28-320.01, 28-813, 28-833, or 28-1463.05
5 or subsection (1) or (2) of section 28-320, the person is guilty of
6 a Class IC felony for each offense.

7 Sec. 13. Section 29-110, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 29-110 (1) Except as otherwise provided by law, no person
10 shall be prosecuted for any felony unless the indictment is found
11 by a grand jury within three years next after the offense has
12 been done or committed or unless a complaint for the same is filed
13 before the magistrate within three years next after the offense
14 has been done or committed and a warrant for the arrest of the
15 defendant has been issued.

16 (2) Except as otherwise provided by law, no person shall
17 be prosecuted, tried, or punished for any misdemeanor or other
18 indictable offense below the grade of felony or for any fine or
19 forfeiture under any penal statute unless the suit, information,
20 or indictment for such offense is instituted or found within one
21 year and six months from the time of committing the offense or
22 incurring the fine or forfeiture or within one year for any offense
23 the punishment of which is restricted by a fine not exceeding one
24 hundred dollars and to imprisonment not exceeding three months.

25 (3) Except as otherwise provided by law, no person

1 shall be prosecuted for kidnapping under section 28-313, false
2 imprisonment under section 28-314 or 28-315, child abuse under
3 section 28-707, pandering under section 28-802, debauching a
4 minor under section 28-805, or an offense under section 28-813,
5 28-813.01, or 28-1463.03 when the victim is under sixteen years of
6 age at the time of the offense (a) unless the indictment for such
7 offense is found by a grand jury within seven years next after the
8 offense has been committed or within seven years next after the
9 victim's sixteenth birthday, whichever is later, or (b) unless a
10 complaint for such offense is filed before the magistrate within
11 seven years next after the offense has been committed or within
12 seven years next after the victim's sixteenth birthday, whichever
13 is later, and a warrant for the arrest of the defendant has been
14 issued.

15 (4) No person shall be prosecuted for a violation of
16 the Securities Act of Nebraska under section 8-1117 unless the
17 indictment for such offense is found by a grand jury within five
18 years next after the offense has been done or committed or unless
19 a complaint for such offense is filed before the magistrate within
20 five years next after the offense has been done or committed and a
21 warrant for the arrest of the defendant has been issued.

22 (5) There shall not be any time limitations for
23 prosecution or punishment for treason, murder, arson, forgery,
24 sexual assault in the first or second degree under section 28-319
25 or 28-320, sexual assault of a child in the second or third degree

1 under section 28-320.01, incest under section 28-703, or sexual
2 assault of a child in the first degree under section 28-319.01; nor
3 shall there be any time limitations for prosecution or punishment
4 for sexual assault in the third degree under section 28-320 when
5 the victim is under sixteen years of age at the time of the
6 offense.

7 (6) The time limitations prescribed in this section shall
8 include all inchoate offenses pursuant to the Nebraska Criminal
9 Code and compounding a felony pursuant to section 28-301.

10 (7) The time limitations prescribed in this section shall
11 not extend to any person fleeing from justice.

12 (8) When any suit, information, or indictment for any
13 crime or misdemeanor is limited by any statute to be brought or
14 exhibited within any other time than is limited by this section,
15 then the suit, information, or indictment shall be brought or
16 exhibited within the time limited by such statute.

17 (9) If any suit, information, or indictment is quashed or
18 the proceedings set aside or reversed on writ of error, the time
19 during the pendency of such suit, information, or indictment so
20 quashed, set aside, or reversed shall not be reckoned within this
21 statute so as to bar any new suit, information, or indictment for
22 the same offense.

23 (10) The changes made to this section by Laws 2004, LB
24 943, shall apply to offenses committed prior to April 16, 2004, for
25 which the statute of limitations has not expired as of such date

1 and to offenses committed on or after such date.

2 (11) The changes made to this section by Laws 2005, LB
3 713, shall apply to offenses committed prior to September 4, 2005,
4 for which the statute of limitations has not expired as of such
5 date and to offenses committed on or after such date.

6 Sec. 14. (1) In any judicial or administrative
7 proceeding, any property or material that constitutes a visual
8 depiction of sexually explicit conduct, as defined in section
9 28-1463.02 and which has a child, as defined in such section,
10 as one of its participants or portrayed observers, shall remain
11 constantly and continuously in the care, custody, and control of
12 law enforcement, the prosecuting attorney, or the court having
13 properly received it into evidence.

14 (2) All courts and administrative agencies shall
15 unequivocally deny any request by the defendant, his or her
16 attorney, or any other person, agency, or organization, regardless
17 of whether they are a party in interest or not, to acquire
18 possession of, copy, photograph, duplicate, or otherwise reproduce
19 any property or material that constitutes a visual depiction of
20 sexually explicit conduct, as defined in section 28-1463.02, and
21 which has a child, as defined in such section, as one of its
22 participants or portrayed observers, so long as the state makes
23 the property or material reasonably available to a defendant in a
24 criminal proceeding. Nothing in this section shall be deemed to
25 prohibit the review of the proscribed materials or property by a

1 federal court when considering habeas corpus claims.

2 (3) For purposes of this section, property or material
3 are deemed to be reasonably available to a defendant if the state
4 provides ample opportunity for inspection, viewing, examination,
5 and analysis of the property or material, at a law enforcement
6 or state-operated facility, to the defendant, his or her attorney,
7 and any individual the defendant seeks to use for the purpose of
8 furnishing expert testimony.

9 (4) On or before July 1, 2009, the Supreme Court shall
10 adopt and promulgate rules and regulations regarding the proper
11 control, care, custody, transfer, and disposition of property or
12 material that constitutes a visual depiction of sexually explicit
13 conduct, as defined in section 28-1463.02, and which has a child,
14 as defined in such section, as one of its participants or portrayed
15 observers, that has been received into evidence at any judicial
16 or administrative proceeding. Among the issues addressed by these
17 rules and regulations, the Supreme Court should devise procedures
18 regarding the preparation and delivery of bills of exception
19 containing evidence as described in this section, as well as
20 procedures for storing, accessing, and disposing of such bills of
21 exception after preparation and receipt.

22 Sec. 15. Section 29-4001, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 29-4001 Sections 29-4001 to 29-4014 and section 16 of
25 this act shall be known and may be cited as the Sex Offender

1 Registration Act.

2 Sec. 16. As used in the Sex Offender Registration Act,
3 unless the context otherwise requires:

4 (1) Blog means a web site contained on the Internet
5 that is created, maintained, and updated in a log, journal, diary,
6 or newsletter format by an individual, group of individuals,
7 or corporate entity for the purpose of conveying information or
8 opinions to Internet users who visit their web site;

9 (2) Chat room means a web site or server space
10 on the Internet or communication network designated for the
11 virtually instantaneous exchange of text transmissions or computer
12 file attachments amongst two or more computers or electronic
13 communication device users;

14 (3) Chat room identifiers means the username, password,
15 symbol, image, or series of symbols, letters, numbers, or text
16 characters used by a chat room participant to identify himself or
17 herself in a chat room or to identify the source of any content
18 transmitted from a computer or electronic communication device to
19 the web site or server space upon which the chat room is dedicated;

20 (4) Email means the exchange of electronic text messages
21 and computer file attachments between computers or other electronic
22 communication devices over a communications network, such as a
23 local area computer network or the Internet;

24 (5) Email address means the string of letters,
25 numbers, and symbols used to specify the computer or electronic

1 communication device that is the source or destination of an email
2 message that is transmitted over a communication network;

3 (6) Instant messaging means a direct, dedicated, and
4 private communication service, accessed with a computer or
5 electronic communication device, that enables a user of the service
6 to send and receive virtually instantaneous text transmissions or
7 computer file attachments to other selected users of the service
8 through the Internet or a computer communications network;

9 (7) Instant messaging identifiers means the username,
10 password, symbol, image or series of symbols, letters, numbers,
11 images, or text characters used by an instant messaging user to
12 identify their presence to other instant messaging users or the
13 source of any content sent from their computer or electronic
14 communication device to another instant messaging user;

15 (8) Social networking site means a web page or collection
16 of web sites contained on the Internet: (a) That enables users
17 or subscribers to create, display, and maintain a profile or
18 Internet domain containing biographical data, personal information,
19 photos, or other types of media; (b) that can be searched,
20 viewed, or accessed by other users or visitors to the web site,
21 with or without the creator's permission, consent, invitation, or
22 authorization; and (c) that may permit some form of communication,
23 such as direct comment on the profile page, instant messaging, or
24 email, between the creator of the profile and users who have viewed
25 or accessed the creator's profile; and

1 (9) Uniform resource locator means a series of text
2 based symbols, letters, numbers, images, or text characters used
3 to specify the location and access method for every document, web
4 page, and resource catalogued on or accessible through the Internet
5 or a computer communications network.

6 Sec. 17. Section 29-4003, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 29-4003 (1) Except as provided in subsection (2) of this
9 section, the Sex Offender Registration Act shall apply to any
10 person who on or after January 1, 1997:

11 (a) Pleads guilty to or is found guilty of:

12 (i) Kidnapping of a minor pursuant to section 28-313,
13 except when the person is the parent of the minor and was not
14 convicted of any other offense in this section;

15 (ii) False imprisonment of a minor pursuant to section
16 28-314 or 28-315;

17 (iii) Sexual assault pursuant to section 28-319 or
18 28-320;

19 (iv) Sexual assault of a child in the second or third
20 degree pursuant to section 28-320.01;

21 (v) Sexual assault of a child in the first degree
22 pursuant to section 28-319.01;

23 (vi) Sexual assault of a vulnerable adult pursuant to
24 subdivision (1)(c) of section 28-386;

25 (vii) Incest of a minor pursuant to section 28-703;

- 1 (viii) Pandering of a minor pursuant to section 28-802;
- 2 (ix) Visual depiction of sexually explicit conduct of a
3 child pursuant to section 28-1463.03 or 28-1463.05;
- 4 (x) Knowingly possessing any visual depiction of sexually
5 explicit conduct which has a child as one of its participants or
6 portrayed observers pursuant to section 28-813.01;
- 7 (xi) Criminal child enticement pursuant to section
8 28-311;
- 9 (xii) Child enticement by means of a ~~computer~~ an
10 electronic communication device pursuant to section 28-320.02;
- 11 (xiii) Debauching a minor pursuant to section 28-805; ~~e~~
- 12 (xiv) Enticement by electronic communication device
13 pursuant to section 28-833; or
- 14 ~~(xiv)~~ (xv) Attempt, solicitation, or conspiracy to commit
15 an offense listed in subdivisions (1)(a)(i) through (1)(a)(~~xiii~~)
16 (1)(a)(xiv) of this section;
- 17 (b) Enters the state and has pleaded guilty to or has
18 been found guilty of any offense that is substantially equivalent
19 to a registrable offense under subdivision (1)(a) of this section
20 by any state, territory, commonwealth, or other jurisdiction of the
21 United States, by the United States Government, or by court-martial
22 or other military tribunal, notwithstanding a procedure comparable
23 in effect to that described under section 29-2264 or any other
24 procedure to nullify a conviction other than by pardon;
- 25 (c) Is incarcerated in a jail, a penal or correctional

1 facility, or any other public or private institution or is under
2 probation or parole as a result of pleading guilty to or being
3 found guilty of a registrable offense under subdivision (1)(a) or
4 (b) of this section prior to January 1, 1997; or

5 (d) Enters the state and is required to register as a sex
6 offender under the laws of another state, territory, commonwealth,
7 or other jurisdiction of the United States.

8 (2) In the case of a person convicted of a violation
9 of section 28-313, 28-314, 28-315, or 28-805, the convicted person
10 shall be subject to the Sex Offender Registration Act, unless the
11 sentencing court determines at the time of sentencing, in light
12 of all the facts, that the convicted person is not subject to the
13 act. The sentencing court shall make such determination part of the
14 sentencing order.

15 (3) A person appealing a conviction of a registrable
16 offense under this section shall be required to comply with the act
17 during the appeals process.

18 Sec. 18. Section 29-4006, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 29-4006 (1) Registration information required by the Sex
21 Offender Registration Act shall be in a form approved by the sex
22 offender registration and community notification division of the
23 Nebraska State Patrol and shall include the following information:

24 (a) The legal name and all aliases which the person has
25 used or under which the person has been known;

1 (b) A complete description of the person, including date
2 of birth, social security number, photographs, and fingerprints;

3 (c) A listing of each registrable offense under section
4 29-4003 to which the person pleaded guilty or was found guilty, the
5 jurisdiction where each offense was committed, the court in which
6 the person pleaded guilty or was found guilty of each offense, and
7 the name under which the person pleaded guilty or was found guilty
8 of each offense;

9 (d) The name and location of each jail, penal or
10 correctional facility, or public or private institution to which
11 the person was incarcerated for each offense and the actual time
12 served or confined; ~~and~~

13 (e) The address of the person's current residence and
14 place of employment or vocation and any school he or she is
15 attending; ~~and-~~

16 (f) All email addresses, instant messaging identities,
17 chat room identities, and other Internet communication identities
18 that the person uses or plans to use, all uniform resource locators
19 registered or used by the registrant, and all blogs and Internet
20 sites maintained by the person or to which the person has uploaded
21 any content or posted any messages or information.

22 (2) When the person provides any information under
23 subdivision (f) of subsection (1) of this section, the registrant
24 shall sign a consent form, provided by the law enforcement agency
25 receiving this information, authorizing the:

1 (a) Search of all the computers or electronic
2 communication devices possessed or used by the person, at any time;
3 and

4 (b) Installation of hardware or software to monitor
5 the person's Internet usage on all the computers or electronic
6 communication devices possessed or used by the person.

7 ~~(2)~~ (3) For the duration of the registration period
8 required by the act, registration information shall be verified
9 annually within thirty days after the anniversary date of the
10 person's initial registration date. To properly verify, the
11 following shall occur:

12 (a) The sex offender registration and community
13 notification division of the Nebraska State Patrol shall mail a
14 nonforwardable verification form to the last-reported address of
15 the person;

16 (b) The verification form shall be signed by the person
17 and state whether the address last reported to the division is
18 still correct; and

19 (c) The person shall mail the verification form to the
20 division within ten days after receipt of the form.

21 ~~(3)~~ (4) If the person fails to complete and mail the
22 verification form to the sex offender registration and community
23 notification division of the Nebraska State Patrol within ten days
24 after receipt of the form, or the form cannot be delivered due to
25 the registrant not being at the address last reported, the person

1 shall be in violation of this section unless the person proves that
2 the address last reported to the division is still correct.

3 ~~(4)~~ (5) If the person falsifies the registration or
4 verification form or fails to provide or timely update law
5 enforcement of any of the information required to be provided
6 by the Sex Offender Registration Act, the person shall be in
7 violation of this section.

8 ~~(5)~~ (6) The requirement to verify the address of a
9 sexually violent predator quarterly as provided in section 29-4005
10 and the requirement to verify the address of any other registrant
11 annually as required in this section shall not apply during periods
12 of such registrant's incarceration. Address verification shall be
13 resumed as soon as such incarcerated person is placed on any type
14 of supervised release, parole, or probation or is released from
15 incarceration. Prior to any type of release from incarceration,
16 such person shall report the change of address to the sheriff of
17 the county in which he or she is incarcerated and the sheriff of
18 the county in which he or she resides or is temporarily domiciled.
19 The sheriff shall forward the change of address to the sex offender
20 registration and community notification division of the Nebraska
21 State Patrol.

22 ~~(6)~~ (7) Any person required to register under the Sex
23 Offender Registration Act shall inform the sheriff of any legal
24 change in name, in writing, within five working days after such
25 change, and provide a copy of the legal documentation supporting

1 the change in name. The sheriff shall forward the information to
2 the sex offender registration and community notification division
3 of the Nebraska State Patrol, in writing, within five working days
4 after receipt of the information.

5 (8) Any person required to register under the Sex
6 Offender Registration Act shall inform the sheriff with whom he or
7 she is required to register of any changes in or additions to such
8 person's list of email addresses, instant messaging identities,
9 chat room identities, and other Internet communication identities
10 that the registrant uses or plans to use, all uniform resource
11 locators registered or used by the person, and all blogs and
12 Internet sites maintained by the person or to which the person
13 has uploaded any content or posted any messages or information, in
14 writing, within five working days after such change or addition.
15 The sheriff receiving this updated information shall forward
16 the information to the sex offender registration and community
17 notification division of the Nebraska State Patrol, in writing,
18 within five working days after receipt of the information.

19 Sec. 19. Section 29-4007, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 29-4007 (1) When sentencing a person convicted of a
22 registrable offense under section 29-4003, the court shall:

23 (a) Provide written notification of the duty to register
24 under the Sex Offender Registration Act at the time of sentencing
25 to any defendant who has pleaded guilty or has been found

1 guilty of a registrable offense under section 29-4003. The written
2 notification shall:

3 (i) Inform the defendant that if he or she moves to
4 another address within the same county or ceases to have a
5 residence or temporary domicile, he or she must report all address
6 changes, including not having a residence or temporary domicile, to
7 the county sheriff in the county where he or she has been residing
8 within five working days after his or her move;

9 (ii) Inform the defendant that if he or she moves to
10 another county in the State of Nebraska, he or she must notify the
11 county sheriff in the county where he or she had been last residing
12 and the county sheriff in the county where he or she is living of
13 his or her current address. The notice must be given within five
14 working days after his or her move;

15 (iii) Inform the defendant that if he or she moves to
16 another state, he or she must report the change of address to the
17 county sheriff of the county where he or she has been residing
18 and must comply with the registration requirements of the state to
19 which he or she is moving. The notice must be given within five
20 working days after his or her move;

21 (iv) Inform the defendant that he or she shall (A) inform
22 the sheriff of the county in which he or she resides, in writing,
23 of each postsecondary educational institution at which he or she
24 is employed, carries on a vocation, or attends school, within five
25 working days after such employment or attendance and (B) notify the

1 sheriff of any change in such employment or attendance status of
2 such person at such postsecondary educational institution;

3 (v) Inform the defendant that if he or she goes to
4 another state to work or goes to another state as a student and
5 still resides or is temporarily domiciled in this state, he or she
6 must comply with the registration requirements of both states; and

7 (vi) Inform the defendant that fingerprints and a
8 photograph will be obtained by any registering entity in order to
9 comply with the registration requirements;

10 (vii) Inform the defendant that he or she must provide
11 a list to all sheriffs with whom he or she must register of all
12 email addresses, instant messaging identities, and other Internet
13 communication identities that the defendant uses or plans to use,
14 all uniform resource locators registered or used by the defendant,
15 and all blogs and Internet sites maintained by the defendant or to
16 which the defendant has uploaded any content or posted any messages
17 or information;

18 (viii) Inform the defendant that he or she is required
19 to inform the sheriff with whom he or she is required to register
20 of any changes in or additions to their list of email addresses,
21 instant messaging identities, chat room identities, and other
22 Internet communication identities that the defendant uses or plans
23 to use, all uniform resource locators registered or used by the
24 defendant, and all blogs and Internet sites maintained by the
25 defendant or to which the defendant has uploaded any content or

1 posted any messages or information, in writing, within five working
2 days after such change or addition; and

3 (ix) Inform the defendant that throughout the applicable
4 registration period, if applicable, that he or she is prohibited
5 from accessing or using any Internet social networking web site or
6 any instant messaging or chat room service that has the potential
7 or likelihood of allowing the defendant to have contact with any
8 child who is under the age of eighteen years should the Nebraska
9 State Patrol classify such defendant as a level II or level III sex
10 offender or the defendant has been convicted and is currently being
11 sentenced for:

12 (A) Kidnapping of a minor pursuant to section 28-313;

13 (B) False imprisonment of a minor pursuant to section
14 28-314 or 28-315;

15 (C) Sexual assault in the first degree pursuant to
16 subdivision (1)(c) of section 28-319 or sexual assault of a child
17 in the first degree pursuant to section 28-319.01;

18 (D) Sexual assault of a child in the second or third
19 degree pursuant to section 28-320.01;

20 (E) Incest of a minor pursuant to section 28-703;

21 (F) Visual depiction of sexually explicit conduct of a
22 child pursuant to section 28-1463.03 or 28-1463.05;

23 (G) Knowingly possessing any visual depiction of sexually
24 explicit conduct pursuant to section 28-813.01;

25 (H) Criminal child enticement pursuant to section 28-311;

1 (I) Child enticement by means of an electronic
2 communication device pursuant to section 28-320.02;

3 (J) Enticement by electronic communication device
4 pursuant to section 28-833; or

5 (K) Any attempt or conspiracy to commit an offense
6 listed in subdivisions (1) (a) (ix) (A) through (1) (a) (ix) (J) of this
7 section;

8 (b) Require the defendant to read and sign a form stating
9 that the duty of the defendant to register under the Sex Offender
10 Registration Act has been explained;

11 (c) Retain a copy of the written notification signed by
12 the defendant; and

13 (d) If the defendant is adjudicated a sexually violent
14 predator, include the supporting reports and other information
15 supporting this finding.

16 A copy of the signed, written notification and the
17 journal entry of the court shall be provided to the county
18 attorney, the defendant, the sex offender registration and
19 community notification division of the Nebraska State Patrol, and
20 the county sheriff of the county in which the defendant resides
21 or is temporarily domiciled.

22 (2) When a person is convicted of a registrable offense
23 under section 29-4003 and is not subject to immediate incarceration
24 upon sentencing, prior to being released by the court, the
25 sentencing court shall ensure that the defendant is registered

1 by the sheriff of the county in which the defendant is convicted
2 no later than the time of sentencing. The sheriff shall obtain
3 full registration information and documents as required by section
4 29-4006, and forward the information and documents to the sex
5 offender registration and notification division of the Nebraska
6 State Patrol within five working days.

7 (3) (a) The Department of Correctional Services or a city
8 or county correctional or jail facility shall provide written
9 notification of the duty to register pursuant to the Sex Offender
10 Registration Act to any person committed to its custody for a
11 registrable offense under section 29-4003 prior to the person's
12 release from incarceration. The written notification shall:

13 (i) Inform the person that if he or she moves to another
14 address within the same county, he or she must report all address
15 changes to the county sheriff in the county where he or she has
16 been residing within five working days after his or her move;

17 (ii) Inform the person that if he or she moves to another
18 county in the State of Nebraska, he or she must notify the county
19 sheriff in the county where he or she had been last residing and
20 the county sheriff in the county where he or she is living of
21 his or her current address. The notice must be given within five
22 working days after his or her move;

23 (iii) Inform the person that if he or she moves to
24 another state, he or she must report the change of address to the
25 county sheriff of the county where he or she has been residing

1 and must comply with the registration requirements of the state to
2 which he or she is moving. The notice must be given within five
3 working days after his or her move;

4 (iv) Inform the person that he or she shall (A) inform
5 the sheriff of the county in which he or she resides, in writing,
6 of each postsecondary educational institution at which he or she
7 is employed, carries on a vocation, or attends school, within five
8 working days after such employment or attendance and (B) notify the
9 sheriff of any change in such employment or attendance status of
10 such person at such postsecondary educational institution;

11 (v) Inform the person that if he or she goes to another
12 state to work or goes to another state as a student and still
13 resides or is temporarily domiciled in this state, he or she must
14 comply with the registration requirements of both states; and

15 (vi) Inform the defendant that fingerprints and a
16 photograph will be obtained by any registering entity in order to
17 comply with the registration requirements.

18 (b) The Department of Correctional Services or a city or
19 county correctional or jail facility shall:

20 (i) Require the person to read and sign the notification
21 form stating that the duty to register under the Sex Offender
22 Registration Act has been explained;

23 (ii) Retain a signed copy of the written notification to
24 register; and

25 (iii) Provide a copy of the notification to register

1 to the person, the sex offender registration and notification
2 division of the Nebraska State Patrol, and the sheriff of the
3 county in which the person will be residing upon release from the
4 institution. If the person is going to reside outside of the State
5 of Nebraska, then notification to the sheriff is not required.

6 (4) The Department of Motor Vehicles shall cause written
7 notification of the duty to register to be provided on the
8 applications for a motor vehicle operator's license and for a
9 commercial driver's license.

10 (5) All written notification as provided in this section
11 shall be on a form prepared by the Attorney General.

12 Sec. 20. Section 29-4008, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 29-4008 No person subject to the Sex Offender
15 Registration Act shall knowingly and willfully furnish any false or
16 misleading information in the registration or fail to provide or
17 timely update law enforcement of any of the information required
18 to be provided by the act.

19 Sec. 21. Original sections 21-20,177, 21-20,179, 28-101,
20 28-311, 28-320.02, 28-813.01, 28-1010, 28-1463.02, 28-1463.03,
21 28-1463.04, 28-1463.05, 29-110, 29-4001, 29-4003, 29-4006, 29-4007,
22 and 29-4008, Reissue Revised Statutes of Nebraska, are repealed.

23 Sec. 22. Since an emergency exists, this act takes effect
24 when passed and approved according to law.